

Federal Deposit Insurance Corporation

§ 366.0

should be included in determining the loan-to-value ratio. When mortgage insurance or collateral is used in the calculation of the loan-to-value ratio, and such credit enhancement is later released or replaced, the loan-to-value ratio should be recalculated.

Other acceptable collateral means any collateral in which the lender has a perfected security interest, that has a quantifiable value, and is accepted by the lender in accordance with safe and sound lending practices. Other acceptable collateral should be appropriately discounted by the lender consistent with the lender's usual practices for making loans secured by such collateral. Other acceptable collateral includes, among other items, unconditional irrevocable standby letters of credit for the benefit of the lender.

Owner-occupied, when used in conjunction with the term *1- to 4-family residential property* means that the owner of the underlying real property occupies at least one unit of the real property as a principal residence of the owner.

Readily marketable collateral means insured deposits, financial instruments, and bullion in which the lender has a perfected interest. Financial instruments and bullion must be salable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, on an auction or similarly available daily bid and ask price market. Readily marketable collateral should be appropriately discounted by the lender consistent with the lender's usual practices for making loans secured by such collateral.

Value means an opinion or estimate, set forth in an appraisal or evaluation, whichever may be appropriate, of the market value of real property, prepared in accordance with the agency's appraisal regulations and guidance. For loans to purchase an existing property, the term "value" means the lesser of the actual acquisition cost or the estimate of value.

1- to 4-family residential property means property containing fewer than five individual dwelling units, including manufactured homes permanently affixed to the underlying property (when deemed to be real property under state law).

[57 FR 62896, 62900, Dec. 31, 1992; 58 FR 4460, Jan. 14, 1993]

PART 366—MINIMUM STANDARDS OF INTEGRITY AND FITNESS FOR AN FDIC CONTRACTOR

Sec.

366.0 Definitions.

366.1 What is the purpose of this part?

366.2 What is the scope of this part?

366.3 Who cannot perform contractual services for the FDIC?

366.4 When is there a pattern or practice of defalcation?

366.5 What causes a substantial loss to a federal deposit insurance fund?

366.6 How is my ownership or control determined?

366.7 Will the FDIC waive the prohibitions under §366.3?

366.8 Who can grant a waiver of a prohibition or conflict of interest?

366.9 What other requirements could prevent me from performing contractual services for the FDIC?

366.10 When would I have a conflict of interest?

366.11 Will the FDIC waive a conflict of interest?

366.12 What are the FDIC's minimum standards of ethical responsibility?

366.13 What is my obligation regarding confidential information?

366.14 What information must I provide the FDIC?

366.15 What advice or determinations will the FDIC provide me on the applicability of this part?

366.16 When may I seek a reconsideration or review of an FDIC determination?

366.17 What are the possible consequences for violating this part?

AUTHORITY: Section 9 (Tenth) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1819 (Tenth); sections 12(f)(3) and (4) of the FDI Act, 12 U.S.C. 1822(f)(3) and (4); and section 19 of Pub. L. 103-204, 107 Stat. 2369.

SOURCE: 67 FR 69991, Nov. 20, 2002, unless otherwise noted.

§ 366.0 Definitions.

As used in this part:

(a) The word *person* refers to an individual, corporation, partnership, or other entity with a legally independent existence.

(b) The terms *we*, *our*, and *us* refer to the Federal Deposit Insurance Corporation (FDIC), except when acting as conservator or operator of a bridge bank.

(c) The terms *I*, *me*, *my*, *mine*, *you*, and *yourself* refer to a person who submits an offer to perform or performs, directly or indirectly, contractual services or functions on our behalf.

(d) The phrase *insured depository institution* refers to any bank or savings association whose deposits are insured by the FDIC.